

FEB 10 9 50 AM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)

)

MUR 4646

**SENSITIVE**

Amy Robin Habie, *et al.*

)

GENERAL COUNSEL'S REPORT

**I. INTRODUCTION**

Pursuant to a complaint filed by one of the scheme's straw donors, the Federal Election Commission (the "Commission") found reason to believe (1) that Amy Robin Habie knowingly and willfully violated 2 U.S.C. §§ 441f and 441a(a)(1)(A) and (2) that Carol J. Lewis, Wallace Walker, Rhea Weil and Lawrence Herman violated 2 U.S.C. § 441f. Specifically, the complaint alleges that Habie reimbursed Lewis, Walker, Weil and Herman for their 1996 contributions to Friends of Jane Harman (hereinafter "Harman"). It also alleges that Habie reimbursed Walker, Weil and Herman for their 1995-1996 contributions to Kennedy for Senate (hereinafter "Kennedy").<sup>1</sup> This Report will serve to summarize the results of the Office of General Counsel's ("Office") investigation thus far and present recommendations for further reason to believe findings as to two additional straw donors.

---

<sup>1</sup> The First General Counsel's Report indicated that the "Kennedy contributions" were to Kennedy for Senate 2000. The March 13, 1996 contributions from Habie and Walker were made to Kennedy for Senate 2000. The May 25, 1995 contribution from Weil and the December 11, 1995 contributions from Herman and Walker were made to Kennedy for Senate 1994. Where relevant, this report will distinguish between the two by indicating the relevant election year in parentheses, e.g., "Kennedy (1994)."

Kennedy for Senate 1994 was not originally notified as a respondent. The Commission has not found reason to believe that either Kennedy for Senate 2000 or Friends of Jane Harman knowingly accepted contributions in the name of another or in excess of the monetary limits, and this Office does not anticipate recommending findings as to either committee. Thus, there is no reason for either notification or findings as to Kennedy for Senate 1994.

## II. SUMMARY OF INVESTIGATION

In its First General Counsel's Report, this Office recommended pursuing a limited investigation proceeding on the basis of informal discovery to answer the few questions it had regarding the contributions at issue, e.g., whether the Kennedy contributions reportedly received *prior to* Habie's contribution were reimbursed. Following an initial delay due to a change of counsel and apparent difficulties in securing designations of counsel, counsel for respondents Habie, Walker, Weil and Herman<sup>2</sup> began submitting financial information from these respondents. On June 22, 1998, counsel provided copies of several of the respondents' contributions and reimbursement checks. (Attachment 2.)<sup>3</sup>

Following clarification of the relevant financial material sought by this Office, *see* Attachment 3, by letters dated June 30 and July 3, 1998 (Attachments 4 and 5), counsel submitted monthly (or quarterly) statements from respondents' accounts at various financial institutions (hereinafter "bank statements"). On July 24, 1998, counsel for respondents Habie, Walker, Herman and Weil submitted a request for pre-probable cause conciliation. (Attachment 6.)

On August 18, 1998, this Office sent a letter, via facsimile, indicating that it had completed its review of the financial information submitted and was in receipt of the request for pre-probable cause conciliation. (Attachment 8.) The Office informed

---

<sup>2</sup> All four are represented by the same counsel.

<sup>3</sup> For the Commission's convenience, this Office has attached the copies of respondents' canceled checks it has received as Attachment 1 to this Report. The relevant monthly or quarterly statements from financial institutions that the Office has received are fairly voluminous. Rather than attach the entirety of a year and a half of statements from three of the four investigated respondents, these statements are available for the Commission's review should it desire to do so.

counsel that its review of the financial information raised certain questions that must be answered before the Office could recommend to the Commission that it pursue conciliation with these respondents, and requested that respondents produce six additional checks from one of respondent Habie's accounts. *Id.* Counsel responded that day, requesting that respondents' previous request for pre-probable cause conciliation be held in abeyance until the Office has completed its investigation. (Attachment 9.)<sup>4</sup> On September 17, 1998, respondents submitted five of the requested checks. (Attachment 10.) On October 12, 1998, counsel forwarded correspondence from Habie indicating that she was having some problems obtaining a copy of the final requested check. (Attachment 11.) On October 16, 1998, respondents sent the remaining check. (Attachment 12.)

In sum, this Office has received two of the three investigated straw donors' bank statements for three months prior to and after each reimbursed contribution at issue, and Habie's bank statements for eighteen months from all three of her personal accounts. Respondents also submitted several of the relevant checks, both the straw contributors' contributions and Habie's reimbursement checks.

### III. ANALYSIS

#### A. Questions Raised by the Complaint and Response

Having reviewed the financial information submitted, it appears that all of the Kennedy contributions at issue were reimbursed. Habie's reimbursement check to Herman for his contribution to Kennedy is attached as page 1 of Attachment 1. Habie's reimbursement check to Walker for his contribution to Kennedy (1994) is attached as page 2 of Attachment 1. During the course of its investigation, counsel informed the Office that Habie and Weil contend that Weil was not reimbursed for her contribution to Kennedy. Counsel provided no explanation and simply stated that Habie did not remember writing such a reimbursement check, could not find such a check in the relevant period, and, accordingly, does not believe that this contribution was reimbursed. Weil's bank statement (from her individual account),<sup>5</sup> however, indicates three deposits of \$1,000 between April 28, 1995 and May 15, 1995, any of which could constitute a reimbursement for her May 23, 1995 contribution. (Attachment 13.) In addition to the complainant's initial affidavit, given (1) the corresponding deposits into Weil's account; (2) the undisputed reimbursement of Weil's husband (Herman) and Habie's secretary (Walker) for their contributions to Kennedy; (3) the undisputed reimbursement of Weil, Herman and Walker for their contributions to Harman; and (4) the absence of contributions by Weil other than the ones at issue in this matter – these two contributions are the only ones Weil has made in the past four election cycles – the evidence indicates that Habie reimbursed Weil for all of her contributions.

---

<sup>5</sup> Weil also shares a joint checking account and a joint money market account with Habie.

This Office also reviewed the financial information submitted to determine whether there is any indication that respondent David Boies was the actual contributor behind Habie's reimbursements to the straw contributors. This Office has found no indication that respondent Boies provided the funds Habie used to reimburse the contributors. Habie's main account appears to have been her money market account. The bank statements from this account do not indicate any deposits into that account during the relevant eighteen month period that would correlate to any of the reimbursed contributions. While there were several \$1,000 and \$2,000 deposits into the checking account shared by Habie and Weil, the timing of these deposits does not suggest any connection to the contributions at issue. While the memo to Walker's (reimbursed) contribution check to Kennedy (2000) appears to reference Boies,<sup>6</sup> it is likely that this note refers to the fact that these contributions were (apparently) made at Boies' request. In sum, having reviewed the financial statements from Habie's three accounts during the relevant period, there is no indication that David Boies is the actual contributor behind the 441f schemes at issue.

**B. Questions Raised by the Financial Information**

As is discussed above, *see supra* p. 3, this Office's review of the respondents' financial information and the disclosure reports for the relevant campaign committees raised certain questions as to several of the withdrawals from Habie's main account. Upon review of copies of these checks, two of these withdrawals appear to constitute reimbursements for contributions from residents of South Florida.

---

<sup>6</sup> The memorandum section appears to state as follows: "general 805[illegible]/Boise," (Attachment 1, p. 3.)

Habie issued check number 236 in the amount of \$1,000 to Sonia Pinkus of Delray Beach, Florida on November 8, 1995. (Attachment 1, p. 7.) According to the memo section, this check was for "misc. purch. for gifts." Habie's reimbursement checks to Lawrence Herman and Wallace Walker for their contributions to Kennedy (1994) are dated November 9, 1995 and November 3, 1995, respectively. (Attachment 1, pp. 1-2.) Further, Kennedy (1994) reportedly received a \$1,000 contribution from Pinkus on December 11, 1995, the same day as Herman and Walker's contributions.

Check number 259 in the amount of \$2,000 was issued to Sue Sakolsky of Boca Raton, Florida on February 26, 1996 (attachment 1, p. 8), the same day as Habie's reimbursement check to Walker for his contribution to Kennedy (2000). (Attachment 1, p. 9.) The memo section of the check states "loan-year." Kennedy (1994) reported receiving a \$1,000 contribution from Sakolsky on March 13, 1996, the same day as Habie and Walker's contributions to Kennedy (2000). Lastly, on May 25, 1996, Kennedy (2000) reportedly received a \$1000 contribution from Sakolsky.

These points are illustrated by the following chart:

<b>Name of Contributor</b>	<b>Recipient Committee</b>	<b>Date of Receipt</b>	<b>Amount of Contribution</b>	<b>Date of Habie Check to Contributor</b>
Pinkus, Sonia	Kennedy for Senate (1994)	12/11/95	\$1,000.00	11/08/95
Herman, Lawrence	Kennedy for Senate (1994)	12/11/95	\$1,000.00	11/09/95
Walker, Wallace	Kennedy for Senate (1994)	12/11/95	\$1,000.00	11/03/95
Walker, Wallace	Kennedy for Senate (2000)	03/13/96	\$1,000.00	02/26/96
Sakolsky, Sue	Kennedy for Senate (1994)	03/13/96	\$1,000.00	02/26/96 (\$2,000)
Sakolsky, Sue	Kennedy for Senate (2000)	05/25/96	\$1,000.00	

Habie's characterization of her check to Sakolsky as a "loan" is not inconsistent with that check constituting a reimbursement for her contributions. Though the memo section of Habie's check to Pinkus seems to provide an alternative explanation – "misc. purch. for gifts" – the timing of both Habie's \$1,000 check to Pinkus and her subsequent \$1,000 contribution to Kennedy contradicts the notion that the check was anything other than a reimbursement for her contribution to Kennedy. Further, as with the other straw contributors (Lewis, Walker, Herman, and Weil), Pinkus and Sakolsky – who made contributions to a candidate in a distant state (Massachusetts) – made no contributions to any other candidates for Federal office during the 1995-1996 election cycle or the previous two election cycles. *See e.g.* MUR 4235 (Alaska Interstate Construction, Inc.) (straw donors' lack of political sophistication or previous contributions part of evidence that contributions not made with personal funds). For the reasons set forth above, this

Office recommends that the Commission find reason to believe that Sonia Pinkus and Sue Sakolsky violated 2 U.S.C. § 441f.<sup>7</sup>

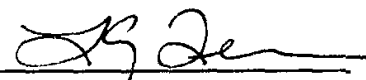
This Office plans to contact these respondents to discuss the matter after they have received notification that they violated the Act. This Office's recommendations regarding conciliation as to respondents Habie, Walker, Weil and Herman will be contained in a subsequent report.

#### IV. RECOMMENDATIONS

1. Find reason to believe that Sonia Pinkus and Sue Sakolsky violated 2 U.S.C. § 441f by knowingly allowing their names to be used to effect a contribution in the name of another.
2. Approve the attached Factual and Legal Analyses and appropriate letters.

Lawrence M. Noble  
General Counsel

2/9/99  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

#### Attachments:

1. Canceled checks produced by respondents Habie, Walker, Weil and Herman
2. May 28, 1998 letter from the Office of General Counsel; June 22, 1998 letter from Todd Thomas, Esq. (w/out enclosures)
3. June 24, 1998 letter from the Office of General Counsel
4. June 30, 1998 letter from Todd Thomas, Esq. (w/out enclosures)
5. July 3, 1998 letter from Todd Thomas, Esq. (w/out enclosures)
6. July 24, 1998 letter from Jonathan D. Schiller, Esq.
7. August 6, 1998 letter from the Office of General Counsel
8. August 18, 1998 letter from the Office of General Counsel
9. August 18, 1998 letter from Todd Thomas, Esq.
10. September 17, 1998 letter from Todd Thomas, Esq. (w/out enclosures)
11. October 12, 1998 letter from Todd Thomas, Esq.
12. October 16, 1998 from Todd Thomas, Esq. (w/out enclosure)

<sup>7</sup> As the Commission has already found that there is reason to believe that Habie violated 441a and 441f, there is no need for additional findings as to Habie based on the Pinkus and Sakolsky contributions.



13. April 18, 1995 - May 15, 1995 bank statement from Rhea Weil's checking account

14. Factual and Legal Analyses (2)

Staff Assigned:

J.M. Lehmann

11  
06  
14  
04  
16  
03  
03  
04  
03  
03



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS  
COMMISSION SECRETARY

DATE: FEBRUARY 16, 1999

SUBJECT: MUR 4646 - General Counsel's Report  
dated February 9, 1999.

A handwritten signature, likely of Lisa R. Davis, is written in ink over the "FROM" line of the memorandum.

The above-captioned document was circulated to the Commission  
on Wednesday, February 10, 1999.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Elliott	
Commissioner Mason	
Commissioner McDonald	—
Commissioner Sandstrom	<b>XXX</b>
Commissioner Thomas	—
Commissioner Wold	—

This matter will be placed on the meeting agenda for  
Tuesday, February 23, 1999.

Please notify us who will represent your Division before the Commission on this matter.